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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,801	09/15/2003	Eric G. Hull	427600600064	9503
7590	06/24/2004		EXAMINER	
Mitchell Rose, Ph.D. Jones Day North Point, 901 Lakeside Avenue Cleveland, OH 44114			ESTRADA, ANGEL R	
			ART UNIT	PAPER NUMBER
			2831	

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/662,801	HULL ET AL.	
	Examiner	Art Unit	
	Angel R. Estrada	2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 20 April 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 6,8-13,15 and 17-34 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 11-13,15 and 17-19 is/are allowed.

6) Claim(s) 6,8-10,23,24,26,28 and 29 is/are rejected.

7) Claim(s) 20-22,25,27 and 30-34 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). ____ .
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4/22/04 . 6) Other: _____

DETAILED ACTION

Information Disclosure Statement

1. Some of the references cited in the Information Disclosure Statement filed on April 22, 2004 were cross out because they were already cited on the form PTO-892 in the last office action.

Claim Objections

2. Claims 30 and 31 are objected to because of the following informalities:
Claim 30 line 4, "said distance", lacks antecedent basis.
Claim 31 line 2, "the extension surface", lacks antecedent basis.
Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6, 8-10, 23, 24, 26, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Schindler et al (US 3,863,037, hereinafter Schindler).

Regarding claim 6, Schindler discloses an electrical bracket (11) for mounting an electrical device to a wall stud, said bracket (11) comprising: a rectangular frame (see figure 1) having first and second opposite end walls (15,17), first and second opposite

side walls (21,19), and a front opening surrounded by said end walls and side walls for inserting an electrical device into said frame (see figure 1), said frame having an end-mounted position in which said first end wall (15) faces a side surface of the stud (see figure 3); a fastening tab (31) extending from said first end wall (15) in a direction away from said second end wall and configured to be fastened to a front surface of the stud (see figure 3, or column 5 lines 50-53) when said frame is in said end-mounted position (see figure 3); and a spacer (37) extending from said first end wall in a direction away from second end wall (see figure 1), configured to abut the side surface of the stud (34) and space said first end wall (15) from the side surface stud when said frame is in said end-mounted position (see figure 3).

Regarding claim 8, Schindler discloses the bracket (11) wherein said spacer (37) is configured to abut the side surface of the stud (34, see figure 3) along a transversely extending line of abutment.

Regarding claim 9, Schindler discloses the bracket (11) further comprising a second such spacer (37, see figure 1) longitudinally spaced apart from said first spacer (see figure 1).

Regarding claim 10, Schindler discloses the bracket (11) further comprising a second such spacer (37, see figure 1) transversely spaced apart from said first spacer (see figure 1).

Regarding claim 23, Schindler discloses the bracket (11) wherein the fastening tab (31) is configured to accept a fastener (see figure 1)

Regarding claim 24, Schindler discloses an electrical bracket (11) for mounting an electrical device to a wall stud (see figure 1), said bracket (11) comprising: a wall

structure defining a front opening and having at least one end wall (15) and at least a first and a second side wall (19,21), said wall structure having an end mounted position in which said at least one end wall (15) faces a side surface of a stud (see figure 3), a fastening member (31) extending from said at least one end wall (15) and configured to be fastened to a front surface of a stud (34) when the wall structure is in the end-mounted position (see figure 4) ; and a spacing element (37) coupled to said at least one end wall (15) and configured to space the at least one end wall (15) a distance from a side wall of a stud when in the end-mounted position (see figure 3).

Regarding claim 26, Schindler discloses the electrical bracket (11) wherein the fastening member (31) is a tab having at least one fastener receiving opening (41) defined therethrough, and the spacing element (37) is member that extends outwardly from the at least one end wall (see figure 1).

Regarding claim 28, Schindler discloses an electrical bracket (11) for mounting an electrical device to a wall stud (see figure 1), said bracket (11) comprising a wall structure defining a front opening and having at least one end wall (15) and at least a first and second side wall (19,21), said wall structure having an end mounted position in which the at least one end wall faces a side surface of a stud (see figure 3); and means (31,37) for spacing the wall structure a distance from a stud (34) and for stabilizing the wall structure relative to a stud (34) when the wall structure is in the end mounted position (see figure 3).

Regarding claim 29, Schindler discloses the electrical bracket (11) wherein the means (31,37) for spacing element and stabilizing comprises a spacing element (37)

extending from the at least one end wall and configured to abut a side surface of a stud (see figure 3).

Allowable Subject Matter

4. Claims 11-13, 15 and 17-19 allowed.

The following is an examiner's statement of reasons for allowance: The primary reasons for the indication of the allowability of claims 11-13, 15 and 17-19 are:

Regarding claims 11-13, 15 and 17, the prior art does not teach or fairly suggest in combination with the other claimed features a fastener support extending from said first end wall in a direction away from said second end wall and configured to capture a stud penetrating fastener that fastened said bracket to the stud when said frame is in said side mounted positions, said fastener support having a distal end configured to contact the side surface of the stud when said frame is in said end mounted position.

Regarding claim 18, the prior art does not teach or fairly suggest in combination with the other claimed features said spacer being fastener support configured to capture a stud-penetrating fastener that fastens said bracket to the stud when said frame is in a side mounted position in which said first side wall faces the stud.

Regarding claim 19 the prior art does not teach or fairly suggest in combination with the other claimed features a fastener support extending from said first end wall in a direction away from said second end wall and configured to capture a stud penetrating fastener that fastened said bracket to the stud when said frame is in said side mounted positions, said fastener support having a distal end configured to contact the side surface of the stud when said frame is in said end mounted position, said fastener

support having a groove surface, and said stabilizer being configured to urge the fastener against the groove surface to retain the fastener in said groove.

This limitation is found in claims 11-13, 15 and 17-19, and is neither disclosed nor taught by the prior art of record, alone or in combination.

5. Claims 20-22, 25, 27 and 30-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The primary reasons for the indication of the allowability of claims 20-22, 25, 27 and 30-34 are:

Regarding claims 20-22, the prior art does not teach or fairly suggest in combination with the other claimed features an extension extending from said first end wall to a location rearward from said side walls, and a stabilizer extending from said extension into a abutting contact with the stud at a location rearward from said side walls when said frame is in said mounted position.

Regarding claim 25, the prior art does not teach or fairly suggest in combination with the other claimed features said spacer being fastener support configured to capture a stud-penetrating fastener that fastens said bracket to a stud when said wall structured is in a side mounted position in which said first side wall faces a stud.

Regarding claim 27, the prior art does not teach or fairly suggest in combination with the other claimed features said spacing element comprising an extension that extends from and is coplanar with the at least one end wall, and a least one stabilizing member that extends outwardly from the extension, said at least one stabilizing member

being configured to abut a side surface of a stud.

Regarding claim 30, the prior art does not teach or fairly suggest in combination with the other claimed features said means for spacing and stabilizing comprises an extension surface that is coplanar with and extends from the at least one end wall, said extension surface being configured to stabilize the wall structure relative to a wall stud when in a end mounted position.

Regarding claim 31 the prior art does not teach or fairly suggest in combination with the other claimed features the bracket further comprising at least one stabilizing member extending from the extension surface, said stabilizing member being configured to abut a side surface of a wall stud at a distance that is greater than zero when the wall structure is in an end mounted position.

Regarding claims 32-34, the prior art does not teach or fairly suggest in combination with the other claimed features the means for spacing and stabilizing comprising a fastener support extending from the least one end wall and configured to capture a stud penetrating fastener for fastening the wall structure to a stud when the wall structure is in a side mounted position, the fastener support configured to abut a side surface of a stud; an extension surface extending from an coplanar with the at least one end wall and a stabilizing member extending from the extension surface configured to abut a side surface of a stud.

These limitations were found in claims 20-22, 25, 27 and 30-34, and are neither disclosed nor taught by the prior art of record, alone or in combination.

Response to Arguments

6. Applicant's arguments with respect to claims 6 and 8-10 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments, see the amendment filed on April 20, 2004, with respect to claims 11-13 and 15 have been fully considered and are persuasive.

In response to the applicant's argument the examiner agrees that neither the combination of Bourassa (US 5,579,939) and Reiker (US 5,667,512) nor the cited prior art disclose, teach or suggest a fastener support extending from said first end wall and configured to capture a stud penetrating fastener that fastened said bracket to the stud when said frame is in said side mounted positions, said fastener support having a distal end configured to contact the side surface of the stud when said frame is in said end mounted position. *DR 6/23/04*

Conclusion

8. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Angel R. Estrada

June 15, 2004

Dean A. Reichard 6/23/04
DEAN A. REICHARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800